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Attorney for Secured Creditor, BCMB1 Trust

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA – RENO DIVISION

In Re:)	CASE NO.: 22-50549-nmc
)	
PATRICIA A. SHEEHAN,)	CHAPTER 13
)	
Debtor.)	OBJECTIONS TO PROPOSED
)	CHAPTER 13 PLAN AND
)	CONFIRMATION THEREOF
)	
)	Hearing Date: December 15, 2022
)	
)	Hearing Time: 3:00 PM
)	

TO THE HONORABLE JUDGE NATALIE M. COX, UNITED STATES
BANKRUPTCY JUDGE, THE DEBTOR, AND THE CHAPTER 13 TRUSTEE:

BCMB1 Trust, its successors and/or assignees (“Secured Creditor”), hereby objects to confirmation of the proposed Chapter 13 Plan filed by PATRICIA A. SHEEHAN (“Debtor”) on October 17, 2022 as Docket Number 2, (the “Plan”). Secured Creditor holds the second position lien secured by Debtor’s primary residence and is entitled to receive payments pursuant to the promissory note secured by a Deed of Trust on the subject real property located at (the “Property”).

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FACTUAL BACKGROUND AND PROCEDURAL HISTORY

On October 3, 2006, the Debtor executed a Note in favor of Countrywide Bank, N.A. in the original principal amount of \$156,000.00 (“Note”), which was secured by a second position Deed of Trust (“Deed of Trust”) recorded against the Property. All beneficial interest in the Note and Deed of Trust was subsequently transferred to the Secured Creditor by Assignment was recorded on July 31, 2019, in the Official Records of Washoe County, Nevada, Document number 4935934 (the “Assignment”).

Debtor filed a Voluntary Petition under Chapter 13 of the United States Bankruptcy Code on October 17, 2022 (“Petition Date”). The Debtor filed the proposed Chapter 13 Plan as Docket Number 2 On October 17, 2022,

Secured Creditor filed its proof of claim on November 15, 2022 as Claim Number 1-1 reflecting a total amount due of \$324,994.32. This total amount is due and payable in full as the loan matured pursuant to the Note and Deed on November 1, 2021.

ARGUMENT

11 U.S.C. § 1325 establishes the requirements for a plan to be confirmed by the Court. Unless otherwise ordered, under 11 U.S.C. § 1326(a)(1), the Debtor shall commence making the payments proposed by the Plan within 30 days after the Petition is filed. The plan cannot be confirmed unless it complies with all applicable provisions of 11 U.S.C. § 1325. Further, under 11 U.S.C. §1322(b)(2), a plan shall not modify the rights of a creditor whose claim is secured only by a security interest in real property that is debtor’s principal residence, which is the case with Secured Creditor’s lien on the Property.

Secured Creditor’s claim matured pre-petition under the terms of the origination documents prior to the last payment due under the plan. As a result, Secured Creditor maintains a total debt claim that is fully secured. 11 U.S.C. Section 1325(a)(5)(B)(ii) requires a debtor’s Chapter 13 Plan to distribute at least the allowed amount of a creditor’s secured claim. See 11 U.S.C. § 1325(a)(5)(B)(ii). Furthermore, the requirement that a debtor provide for the full value of a creditor’s secured claim is mandatory for plan confirmation. See *Barnes v. Barnes (In re Barnes)*, 32 F.3d 405, 407 (9th Cir. 1994); see also *In re Lucas*, 3 B.R. 252, 253

(Bankr. S.D. Cal. 1980) (“In order to confirm any Chapter 13 Plan, the court must be satisfied...that the plan meets all the requirements of § 1325(a).”). The burden lies with the debtor in demonstrating compliance with section 1325(a). *Chinichian v. Campolongo (In re Chinichian)*, 784 F.2d 1440 (9th Cir. 1986).

Debtor’s Plan provides for a conduit payment to Secured Creditor in the amount of \$658.00/mo. Debtor does not provide for any other treatment or repayment of Secured Creditor’s claim. As such, the Plan proposes to pay less than the full amount of the client which will result in a modification of the loan which is secured by a lien on the Debtor’s principal residence.

CONCLUSION

Secured Creditor objects to any plan proposal seeking to pay less than the full amount of the claim. Accordingly, Debtor will be required to amend the plan to fully provide for Secured Creditor’s claim.

WHEREFORE, Secured Creditor respectfully objects to confirmation of the Plan and requests the following:

1. That confirmation of the proposed Chapter 13 Plan be denied;
2. For attorney’s fees and costs incurred herein;
3. For such other and further relief that this Court deems just and proper.

Dated: November 23, 2022

GHIDOTTI | BERGER LLP

By: /s/ Kevin Soderstrom
 Kevin Soderstrom, Esq.
 Attorney for Secured Creditor

CERTIFICATE OF SERVICE

I am employed in the County of Orange, State of California. I am over the age of eighteen and not a party to the within action. My business address is 1920 Old Tustin Ave., Santa Ana, CA 92705.

I am readily familiar with the business's practice for collection and processing of correspondence for mailing with the United States Postal Service; such correspondence would be deposited with the United States Postal Service the same day of deposit in the ordinary course of business.

1. On November 23, 2022, I served the following document:

**OBJECTIONS TO PROPOSED CHAPTER 13 PLAN AND
CONFIRMATION THEREOF**

2. I served the above-named document by the following means to the persons as listed below:

a. ECF System

Counsel for Debtor
KEVIN A. DARBY
kevin@darbylawpractice.com

Chapter 13 Trustee:
WILLIAM A. VAN METER
ECF@reno13.com

b. United States mail, postage fully prepaid

Debtor
PATRICIA A. SHEEHAN
90 TEQUILLA COURT
SPARKS, NV 89441

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

DATED: November 23, 2022

By: /s/ Kevin Soderstrom
Kevin Soderstrom